

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER
NORTHERN REGION**

**Amendment to Administrative Decision
Rex Trail – RST 119, ADL 412566, ADL 401880**

Amended Administrative Decision

In order to facilitate a wider range of transportation options for hunting, provide more comprehensive trail impact and trail use data, and to evaluate monitoring program impacts to Division staff and budget, the DNR, DMLW Northern Region is amending the May 12th, 2008 Rex Trail Decision, and will allow permit-authorized travel by certain tracked vehicles heavier than 1500 lbs on the Rex Trail for the fall 2009 hunting season. This constitutes a modification of the seasonal restriction that went into effect on June 13th, 2008. Vehicles (tracked or wheeled) weighing less than 1500 lbs dry weight will still be allowed to travel without the need for a permit. To be approved for a fall travel permit, off-road vehicles heavier than 1500 lbs must be equipped with rubber tracks, be Nodwell 110-sized or smaller, and may not pull wheeled or skid trailers. All other conditions and restrictions as noted in the original May 12, 2008 Administrative Decision remain in effect. This amended decision will be implemented on August 29, 2009, and will remain in effect until April 15, 2010.

Authority

These permits are being adjudicated pursuant to Alaska Statute 38.05.035(a) (powers and duties of the director), and Alaska Administrative Code 11 AAC 51 (easement management), Alaska Administrative Code 11 AAC 96.010 (uses requiring a permit), and Alaska Administrative Code 11 AAC 05.010 (fees).

Administrative Record

The administrative record for the proposed action consists of case files RST 119, ADL 401880, ADL 412566, The Tanana Basin Area Plan, DMLW Northern Region White Paper (Rex Trail – Resource Management Evaluation) and this decision.

Location

The eastern Rex Trail runs from the George Parks Highway (approximately milepost 280) for more than 50 miles to the Wood River. North of the Wood River, it leaves state land and enters Fort Wainwright Military Reserve near the Blair Lakes Impact Area. The trail is reserved as a public access easement; that portion of the route between the Parks Highway and Gold King Creek is recognized as an RS 2477 right of way, designated case file RST 119. That portion of the trail between the Parks Highway and state lands near Seven Mile Lake is also Alaska Division of Lands (ADL) public access easement 412566. That portion of the trail running from Gold King Creek to state land near the Wood River is designated ADL 401880.

A small portion of the eastern route (approximately 1.5 miles east of milepost 280) has been hardened to improve access to Southwind Homestead; this improved section of the route ends in Section 11, Township 8 South, Range 8 West, FM, at the intersection of

the Rex trail and another public access easement (ADL 415819) which connects with the Parks Highway near Rochester Lodge.

Legal Description

Fairbanks Meridian, Township 8 South, Range 8 West, Sections 11 and 12: That portion of the Rex Trail (RST 119 and ADL 412566) lying east of the intersection with the connecting road from Rochester Lodge, ADL415819.

Fairbanks Meridian, Township 8 South, Range 7 West, Sections 7-12
Fairbanks Meridian, Township 8 South, Range 6 West, Sections 1-4, 7-9
Fairbanks Meridian, Township 8 South, Range 5 West, Sections 2-6, 11-12
Fairbanks Meridian, Township 8 South, Range 4 West, Sections 7-8, 14-17, 23-24
Fairbanks Meridian, Township 8 South, Range 3 West, Sections 19, 27-30, 34-36
Fairbanks Meridian, Township 8 South, Range 2 West, Sections 13-15, 21-22, 26-27, 33-34
Fairbanks Meridian, Township 9 South, Range 2 West, Sections 4-6, 8-9
Fairbanks Meridian, Township 8 South, Range 1 West, Sections 1-2, 7-11
Fairbanks Meridian, Township 7 South, Range 1 West, Sections 12-13, 24-25, 36

The scope of this decision is limited to the portion of the eastern Rex trail –which is unimproved and essentially a trail - between the intersection with ADL 415819 and the southern boundary of Fort Wainwright near the Wood River.

Background and Discussion

In response to public reports of intense seasonal motorized use, increased travel with large off-road vehicles (such as Nodwells and large-tired “moose buggies”) and degrading travel conditions on the eastern Rex Trail, DNR conducted an evaluation of information including DNR field work (a preliminary trail condition assessment), land records, current statutes and regulations, scientific studies, varying public reports and concerns, data from other agencies, and possible trail management options.

Based on the information gathered, an Administrative Decision was issued on May 12th, 2008 and implemented on June 13, 2008. This decision imposed a temporary seasonal restriction on the Eastern Rex Trail. In order to slow the degradation of trail conditions, reduce the risks to public safety during trail travel, and to reduce the potential for more significant resource damage, the DNR, DMLW Northern Region temporarily restricted summer and fall motorized travel on a portion of the Rex Trail (RST 119, ADL 412566 and ADL 401880) to vehicles with a curb weight of 1500lbs or less. The original decision noted that DNR recognizes the need for more comprehensive evaluation of trail conditions and the relative impacts caused by different types of vehicles. The decision and attached evaluation report further noted that, while DNR is developing a plan for additional trail assessment, the nature and extent of such work is contingent upon funding and staff availability. Due to the constraints on DNR resources, complexity of the problem and extent of the large trail, DNR has consistently emphasized that the most scientifically sound, comprehensive and effective trail/impact assessment program would involve obtaining assistance from professional environmental consultants or qualified 3rd party trail development organizations. Because DNR currently lacks budget or staff for such extensive work, funding, organizing and implementing such projects would only be

feasible with the assistance of user groups, community organizations, or legislative appropriations.

During the past year, DNR has conducted additional field inspections, obtained video footage of the trail route, and begun a program for collecting and recording soil temperature data. While many individuals and some organizations have insisted that the seasonal trail restrictions be lifted, especially for lower PSI tracked vehicles such as Nodwells and SUSV's, and call for more extensive impact analysis, none have proposed comprehensive evaluation programs or offered assistance with funding or other support to facilitate additional comprehensive work. Given this situation, DNR has developed a limited trail assessment and monitoring program designed to build on and compliment data obtained during the December 2007 preliminary assessment and subsequent field work.

In conjunction with this program, the current trail restriction will be modified to allow additional vehicles types to travel the trail so that DNR can monitor impacts of this additional use. This program will be implemented using only DNR staff, time, and resources, and therefore is limited in nature. The goal of the monitoring program will be to gather trail/travel conditions, use and impact data, and to evaluate the usefulness of the program for making future management decisions. Due to the short 1-year time frame for the beginning work, initial results will address measurable trail surface disturbance information; subsurface permafrost thaw changes, which have substantial effect on long-term soil and trail stability, will also need to be taken into consideration for future trail management decisions. This will be important for future consideration of psi vs. total vehicle weight as a criterion in trail use permitting.

Though limited in nature, this program will require a large investment of staff time, resources, and funding to implement; therefore, another goal for the upcoming fall season is to evaluate the impact of this program on DMLW staff and budget and assess the impact on other duties. This information will be used to determine the feasibility of continuing the monitoring program in future years.

The proposed trail use/trail impact study will be more useful and comprehensive if it includes a wide variety of the vehicles which have been using the Rex Trail; this must be balanced, however, with the need to minimize resource and access damage. DNR's overall goal and responsibility is to protect long-term public access on the Rex Trail. This goal, and DNR's responsibility to the public, would not be served by ignoring the access damage information already collected or by lifting all restrictions and leaving the Rex Trail primarily unmanaged, as it was prior to the 2008 decision. For these reasons, the temporary restriction implemented by the May 12th 2008 Administrative Decision will be **modified** to allow some tracked vehicles over 1500lbs (those equipped with rubber tracks, without wheeled or skidded trailers attached) to travel the Rex Trail during the Fall 2009 season, by permit as required state regulation. This provides opportunities for DNR to evaluate some use and impact data on those vehicles.

Because of the multiple use of the trail, including the many off-road vehicles under 1500 pounds, DNR needs to understand the quantity and type of use by heavier tracked equipment that is occurring during this hunting season in order to put the monitoring data in perspective. Permits issued for the heavier tracked vehicles, as required by regulation, will provide that type of data.

Those wishing to use the Rex Trail will be required to obtain a permit from DNR for use of vehicles over 1500 pounds. DNR regulations require a \$100 application fee. The permits will be available over-the-counter. The applicant must describe and provide a picture of their vehicle, the number of people in their party, and a general location as to where the vehicle will be used (Parks Highway to Totatlanika River, Parks Hwy to Tatlanika River, Parks Hwy to Wood River, Parks Hwy to beyond the Wood River, Other). Permits issued under this amended decision will remain valid through April 15th, 2010. Special stipulations on the use of vehicles are as follows:

- Permit is valid for rubber tracked vehicles over 1500 lbs up to and including Nodwell 110-sized vehicles.
- Travel is only authorized on the main trail of the Rex.
- No new trails shall be created.
- No travel is authorized off the Rex Trail by vehicles over 1500 pounds.
- Vehicle parking sites may be established on state land within 100 yards of the Rex Trail within naturally occurring or existing clearings.
- The vehicle operator must keep the signed and approved permit on site and available for inspection in the field at all times.
- No skid mounted or wheeled trailers are allowed.
- The established trail may be cleared of downed timber or brush provided that said clearing does not tear or otherwise destroy the vegetative mat (if present).
- General vehicle operations shall be conducted in a manner which causes the least amount of impact to the vegetation and soil so as to avoid additional damage to the trail.
- Stream crossings shall be conducted according to the following:
 - Crossings shall be made from bank to bank in a direction substantially perpendicular to the direction of stream flow.
 - Crossings shall be made only at locations with gradual down sloping banks. There shall be no crossings at locations with sheer or cut banks.
 - Beyond ordinary impact, stream slopes or banks shall not be altered or disturbed in any way to facilitate crossings.
 - Stream crossing activities shall avoid sensitive fish life stages. The Alaska Department of Fish & Game may restrict or prohibit activities during certain sensitive periods as necessary.
- Permittee assumes all responsibility, risk and liability for its activities and those of its employees, agents, contractors, subcontractors, licensees, or invitees, directly or indirectly related to this permit, including environmental and hazardous substance risk and liability, whether accruing during or after the term of this permit. Permittee shall defend, indemnify, and hold harmless the State of Alaska, its agents and employees, from and against any and all suits, claims, actions, losses, costs, penalties, and damages of whatever kind or nature, including all attorney's fees and litigation costs, arising out of, in connection with, or incident to any act or omission by Permittee, its employees, agents, contractors, subcontractors, licensees, or invitees, unless the proximate cause of the injury or damage is the sole negligence or willful misconduct of the State or a person acting on the State's behalf. Within 15 days, Permittee shall accept any such cause, action or proceeding upon tender by the State. This indemnification shall survive the termination of the permit.
- The Division of Mining, Land & Water reserves the right to modify these stipulations or use additional stipulations as deemed necessary.

- This permit does not eliminate the need to obtain other necessary authorizations from federal, state and local agencies and affected private entities.

Decision

It is the decision of the Northern Region to modify the seasonal restriction on the Rex Trail as discussed above. This decision is effective immediately and allows use of the Rex Trail by qualifying vehicles from August 29, 2009 through April 15, 2009.

 /Signed/

Northern Region Manager

Department of Natural Resources, Division of Mining, Land & Water

 August 25th, 2009

Date

A person affected by this decision may appeal it, in accordance with 11 AAC 02. Any appeal must be received September 14, 2009 and may be mailed or delivered to Tom Irwin, Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918, or sent by electronic mail to dnr.appeals@alaska.gov. This decision takes effect immediately. If no appeal is filed by the appeal deadline, this decision becomes a final administrative order and decision of the department on September 25, 2009. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to Superior Court. A copy of 11 AAC 02 may be obtained from any regional information office of the Department of Natural Resources.